

MONTANA LEGISLATIVE HISTORY

Chapter 298 19 91

Bill H 712 S _____

Original bill & history ☒ C

H. Committee on Labor & Employment Relations S. Committee on Labor & Employment Relations

Hearing Date(s) Feb 21 ☒ C

Hearing Date(s) Mar 12 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 22 ☒ C

Mar 14 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

ACCREDITATION STANDARDS

2/08 INTRODUCED
 2/08 REFERRED TO EDUCATION & CULTURAL RESOURCES
 2/09 FIRST READING
 2/22 HEARING
 DIED IN COMMITTEE

HB 709 INTRODUCED BY SIMPKINS, ET AL.

REPEAL ADMINISTRATIVE RULES IMPLEMENTING
ACCREDITATION STANDARDS

2/08 INTRODUCED
 2/08 REFERRED TO EDUCATION & CULTURAL RESOURCES
 2/09 FIRST READING
 2/22 HEARING
 2/22 TABLED IN COMMITTEE

HB 710 INTRODUCED BY BRADLEY, ET AL.

APPROPRIATION FOR CAPITOL FIRST FLOOR METAMORPHOSIS

2/08 INTRODUCED
 2/08 REFERRED TO APPROPRIATIONS
 2/09 FIRST READING
 3/21 HEARING
 3/23 TABLED IN COMMITTEE

HB 711 INTRODUCED BY CONNELLY, ET AL.

PROVIDE SUPPLEMENTAL HIGHWAY PATROL BENEFIT PAYMENT
FOR CERTAIN RETIREES

2/08	INTRODUCED		
2/08	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/09	FIRST READING		
2/09	FISCAL NOTE REQUESTED		
2/15	FISCAL NOTE RECEIVED		
2/15	FISCAL NOTE PRINTED		
2/16	HEARING		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED	99	0
2/26	3RD READING PASSED	96	2

TRANSMITTED TO SENATE			
2/27	FIRST READING		
2/27	REFERRED TO STATE ADMINISTRATION		
3/19	HEARING		
3/21	FISCAL NOTE REQUESTED		
3/25	FISCAL NOTE RECEIVED		
3/26	FISCAL NOTE PRINTED		
3/27	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/01	2ND READING CONCURRED	49	0
4/02	3RD READING CONCURRED	49	0

RETURNED TO HOUSE WITH AMENDMENTS			
4/09	2ND READING AMENDMENTS CONCURRED	91	7
4/10	3RD READING AMENDMENTS CONCURRED	94	5
4/18	SIGNED BY SPEAKER		
4/19	SIGNED BY PRESIDENT		
4/19	TRANSMITTED TO GOVERNOR		
4/23	SIGNED BY GOVERNOR		
CHAPTER NUMBER 567			

EFFECTIVE DATE: 7/01/91

HB 712 INTRODUCED BY SQUIRES, ET AL.

MANDATE EMPLOYER TO PURCHASE EMPLOYEE'S SAFETY
EQUIPMENT EXCEPT FOOTWEAR

HOUSE FINAL STATUS

HB 715

2/08	INTRODUCED		
2/08	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
2/09	FIRST READING		
2/09	FISCAL NOTE REQUESTED		
2/12	FISCAL NOTE RECEIVED		
2/14	FISCAL NOTE PRINTED		
2/21	HEARING		
2/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/23	2ND READING PASSED	76	20
2/26	3RD READING PASSED	71	28
	TRANSMITTED TO SENATE		
2/27	FIRST READING		
2/27	REFERRED TO LABOR & EMPLOYMENT RELATIONS		
3/12	HEARING		
3/14	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/16	2ND READING CONCURRED	49	0
3/18	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE WITH AMENDMENTS		
3/21	2ND READING AMENDMENTS CONCURRED	73	12
3/23	3RD READING AMENDMENTS CONCURRED	76	21
3/27	SIGNED BY SPEAKER		
3/27	SIGNED BY PRESIDENT		
3/27	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 298		
		EFFECTIVE DATE: 10/01/91	

HB 713 INTRODUCED BY KNOX, ET AL

REVISE THE TERM "MENTAL DISORDER" IN LAW RELATING TO
CENTER FOR THE AGED

BY REQUEST OF DEPARTMENT OF INSTITUTIONS

2/08	INTRODUCED		
2/08	REFERRED TO HUMAN SERVICES & AGING		
2/09	FIRST READING		
2/18	HEARING		
2/19	COMMITTEE REPORT—BILL PASSED		
2/19	PLACED ON CONSENT CALENDAR		
2/23	3RD READING PASSED	98	0
	TRANSMITTED TO SENATE		
2/25	FIRST READING		
2/25	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
3/18	HEARING		
3/20	TABLED IN COMMITTEE		

HB 714 INTRODUCED BY S. RICE

ALLOW FOR APPOINTMENT OF URBAN TRANSPORTATION BOARD

2/08	INTRODUCED		
2/08	REFERRED TO LOCAL GOVERNMENT		
2/09	FIRST READING		
2/19	HEARING		
2/19	TABLED IN COMMITTEE		

HB 715 INTRODUCED BY PECK

GENERALLY REVISE LAWS RELATED TO SCHOOL DISTRICT
ACCOUNTING PROCEDURES

BY REQUEST OF OFFICE OF PUBLIC INSTRUCTION

2/08	INTRODUCED		
2/08	REFERRED TO EDUCATION & CULTURAL RESGURCES		
2/09	FIRST READING		
2/09	FISCAL NOTE REQUESTED		
2/14	FISCAL NOTE RECEIVED		

1 HOUSE BILL NO. 712
 2 INTRODUCED BY Spencer
 3 Daily Boeker Anthony
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO MANDATE THAT AN
 5 EMPLOYER PURCHASE, FURNISH, AND REQUIRE THE USE OF
 6 PROTECTIVE CLOTHING OR OTHER HEALTH AND SAFETY ITEMS THAT
 7 MAY BE REQUIRED FOR THE PROTECTION OF AN EMPLOYEE IN THE
 8 WORKPLACE; TO PROHIBIT A PERSON FROM REMOVING, INTERFERING
 9 WITH, OR REFUSING TO USE REQUIRED HEALTH AND SAFETY ITEMS;
 10 AND AMENDING SECTIONS 50-71-201 AND 50-71-203, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 50-71-201, MCA, is amended to read:

14 "50-71-201. Employer to provide safe workplace and to
 15 purchase, furnish, and require the use of health and safety
 16 devices items and -- safe practices. Every Each employer
 17 shall:

18 (1) furnish a place of employment which that is safe
 19 for each of his employees therein-and-shall;

20 (2) purchase, furnish and-use, and require the use of
 21 such health and safety devices, and safeguards and,
 22 protective clothing, or other health and safety items,
 23 including air masks, hardhats, and protective gloves, that
 24 may be required by state or federal law, the employer, or
 25 the terms of an employment contract;

1 (3) shall adopt and use such practices, means, methods,
 2 operations, and processes as that are reasonably adequate to
 3 render the place of employment safe; and shall
 4 (4) do every any other thing reasonably necessary to
 5 protect the life, health, and safety of his employees."

6 **Section 2.** Section 50-71-203, MCA, is amended to read:

7 "50-71-203. Removal of or refusal to use health and
 8 safety devices items prohibited. No A person shall may not:

9 (1) remove, displace, damage, destroy, carry off, or
 10 refuse to use any health and safety device or, safeguard,
 11 protective clothing, or other health and safety item
 12 furnished and-provided for his use in--any--employment--or
 13 place-of-employment by his employer; or

14 (2) interfere in--any--way with the use thereof of any
 15 required health and safety device, safeguard, protective
 16 clothing, or other health and safety item by any other
 17 person; or

18 (3) interfere with the use of any a method or process
 19 adopted for the protection of any an employee in such
 20 employment-or the place of employment; or

21 (4) fail to do any other thing reasonably necessary to
 22 protect the life, health, and safety of such employees."

-End-

INTRODUCED BILL
 HB 712

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0712, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to mandate that an employer purchase, furnish, and require the use of protective clothing or other health and safety items that may be required for the protection of an employee in the workplace; to prohibit a person from removing, interfering with, or refusing to use required health and safety items.

ASSUMPTIONS:

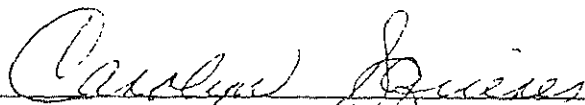
1. The federal Occupational Safety and Health Administration (OSHA) supersedes state enforcement in the private sector where OSHA has jurisdiction.
2. Enforcement of new requirements in the public sector and mining industry would be implemented within the current level budget of the Safety Bureau.

FISCAL IMPACT:

None.

 2-12-91

ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 _____
CAROLYN M. SQUIRES, PRIMARY SPONSOR DATE
Fiscal Note for HB0712, as introduced.

HB 712

construction case, it was \$30 per day for the motel. No matter how many hours were worked, it wasn't tied to hours. Workers' Compensation said a premium wasn't owed on that \$30. UI said a premium was owed above \$24.50 which tied it back to the state rate. That is inconsistent. Why is it tied to the state rate?

Mr. Mullen said the Department would like to create some consistency between the way the two Funds are operated. HB 807 had some coordinating language to have the two divisions within the Department trade lists and try to insure that they are treated the same way within the Department. REP. DRISCOLL said in previous testimony, Mr. Judge asked that rules be the same as they are now. Will that rule be changed no matter what the number is, so it will be made the same under UI and Workers' Compensation? Mr. Mullen said yes; the Department will try to make the rules consistent.

Closing by Sponsor:

REP. WANZENRIED closed the hearing on HB 812.

EXECUTIVE ACTION ON HB 812

Motion/Vote: REP. JOHNSON MOVED HB 812 DO PASS. Motion carried unanimously.

Motion/Vote: REP. SOUTH MOVED HB 812 BE PLACED ON CONSENT CALENDAR. Motion carried unanimously.

HEARING ON HB 712

Presentation and Opening Statement by Sponsor:

REP. CAROLYN SQUIRES, House District 58, Missoula, said HB 712 requires the employers to buy safety equipment necessary to provide a safe environment for employees. The employees must respond by using the equipment provided. The bill mandates the employee wear the equipment provided for safety in the workplace. She proposed amendments. "Footwear" was removed from the bill, and those people, who have negotiated a contract dealing with the purchase of safety equipment, are to be excluded.

Proponents' Testimony:

Dan Edwards, Oil, Chemical, and Atomic Workers' Union, stated his support.

Bob Heiser, United Food and Commercial Workers' Union, said safety equipment reduces injuries.

George Wood, Executive Secretary, Montana Self Insurers Association, stated his support with the exclusion of "footwear" and changing the "or" to "and" on Page 1, Line 24.

Jim Schmauch, Aluminum Workers Trades Council, Columbia Falls, said his union favors safety for its employees. The bill would place an unfair burden on members and the company. It is covered under a collective bargaining agreement and negotiated with a company on how safety equipment is supplied and who is responsible for the cost. When a collective bargaining agreement is in force, the safety and health items should be left to that process. He proposed an amendment to exclude those companies involved in a collective bargaining agreement process.

Lars Ericson, Montana State Council of Carpenters, said he was also speaking on behalf of Gene Fenderson who represents the Montana Building and Construction Trades Council. In addition to the normal physical dangers encountered in the workplace, workers come in contact with hazardous wastes, toxic materials, etc. It is important that employees are provided with safety equipment, and they should be required to wear the equipment.

Mark Langdorf, Field Representative, American Federation of State, County, and Municipal Employees (AFSCME), stated his support.

Beth O'Halloran, Montana Federation of Teachers, State Employees and Health Care Employees, stated her support.

Don Judge, AFL-CIO, presented written testimony. EXHIBIT 31

Don Allen, Montana Wood Products Association, stated his support with the amendments.

Opponents' Testimony: None

Questions From Committee Members:

REP. DOLEZAL asked REP. SQUIRES if changing the "or" to "and" addresses the concern that the safety items can be bargained into the contract. REP. SQUIRES said yes.

REP. DOLEZAL said the bill has been amended to allow for negotiated contracts. He asked Mr. Schmauch if that addressed his concern. Mr. Schmauch said yes, if it allows those with collective bargaining agreements to continue to negotiate.

REP. DOLEZAL asked REP. SQUIRES if the amendment does as Mr. Schmauch said. REP. SQUIRES said yes.

REP. BENEDICT asked REP. SQUIRES when purchasing health and safety devices, safeguards, and protective clothing, could this bill be construed to mean people who work outdoors. Would the employer be required to buy them winter coats as protective clothing, or does the bill mean safety clothing? REP. SQUIRES said safety clothing.

REP. HANSON said employees of contractors have refused to wear their hard hats which the contract requires. The only way to force them was to shut the job down and place time penalties on the contractor. He asked REP. SQUIRES what the penalty would be if the employees won't abide by the requirement. REP. SQUIRES said probably shutting down the job. Each employer would have some policy where the employees would be disciplined if they didn't wear the required safety clothing. At the hospital (where she works), an employee is "written up" for disciplinary action, and after three times the employee is fired. REP. HANSON asked if language could be included that would authorize the employer to set up a fine arrangement for employees who did not utilize the safety equipment. REP. SQUIRES said each employer should decide his disciplinary action.

REP. SOUTHWORTH said it is up to the boss to establish a safety program.

Closing by Sponsor:

REP. SQUIRES said safety is of the utmost importance in the workplace to reduce injuries and cost of Workers' Compensation.

HEARING ON HB 875

Presentation and Opening Statement by Sponsor:

REP. TIM WHALEN, House District 93, Billings, said HB 875 requires representation of organized labor on the State Employee Group Benefit Advisory Council.

Proponents' Testimony:

Beth O'Halloran, Montana Federation of State Employees, presented written testimony. EXHIBIT 32

Tom Schneider, Montana Public Employees Association, stated his support. He has been a member of the Council since the beginning. At one time there were two labor members, and currently he is the only labor member. There is one member from ICCW (Inter-Coordinating Committee for Women), and he doesn't want to lose that member by adding more labor members.

Bob Heiser, United Food and Commercial Workers Union, stated his support.

Opponents' Testimony: None

Questions From Committee Members:

REP. LEE asked Ms. McClure how many groups would be included under 39-31-103, MCA. Ms. McClure said "labor organization" means any organization or association in which employees participate and which exists for the primary purpose of dealing

EXECUTIVE ACTION ON HB 865

Motion: REP. DRISCOLL MOVED HB 865 DO PASS.

Motion: REP. DRISCOLL moved to amend HB 865. EXHIBIT 33.

Discussion:

REP. DRISCOLL said if the amendments are accepted, the bill will become an appropriations bill.

Vote: HB 865 amendments. Motion carried unanimously.

Motion/Vote: REP. DRISCOLL MOVED TO TAKE NO FURTHER ACTION ON HB 865. Motion carried 17 to 1 with Rep. Johnson voting no.

EXECUTIVE ACTION ON HB 712

Motion: CHAIR SQUIRES MOVED HB 712 DO PASS.

Motion/Vote: CHAIR SQUIRES moved to amend HB 712. EXHIBIT 34. Motion carried unanimously.

Motion/Vote: CHAIR SQUIRES MADE A SUBSTITUTE MOTION THAT HB 712 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 804

Motion/Vote: REP. WHALEN MOVED HB 804 DO PASS. Motion carried 11 to 7 with Reps. Lee, Hoffman, Johnson, Benedict, Thomas, Hanson, and Fagg voting no.

ADJOURNMENT

Adjournment: 8:00 p.m.


CAROLYN SQUIRES, Chair


JENNIFER THOMPSON, Secretary

CS/jt

HOUSE OF REPRESENTATIVES

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

ROLL CALL

DATE 2/21/91

NAME	PRESENT	ABSENT	EXCUSED
REP. JERRY DRISCOLL	✓		
REP. MARK O'KEEFE	✓		
REP. GARY BECK	✓		
REP. STEVE BENEDICT	✓		
REP. VICKI COCCHIARELLA	✓		
REP. ED DOLEZAL	✓		
REP. RUSSELL FAGG	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. ROYAL JOHNSON	✓		
REP. THOMAS LEE	✓		
REP. BOB PAVLOVICH	✓		
REP. JIM SOUTHWORTH	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		
REP. TIM WHALEN	✓		
REP. TOM KILPATRICK, V.-CHAIR	✓		
REP. CAROLYN SQUIRES, CHAIR	✓		

HOUSE STANDING COMMITTEE REPORT

February 22, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that House Bill 712 (first reading copy -- white) do pass as amended .

Signed: Carolyn Squires
Carolyn Squires, Chairman

And, that such amendments read:

1. Title, line 4.

Following: "THAT"

Insert: ", WITH THE EXCEPTION OF FOOTWEAR,"

2. Title, line 6.

Following: "PROTECTIVE"

Insert: "SAFETY"

3. Page 1, line 20.

Following: "(2)"

Insert: "with the exception of footwear,"

4. Page 1, line 22.

Page 2, lines 11 and 15

Following: "protective"

Insert: "safety"

5. Page 1, line 24.

Following: "employer,"

Strike: "or"

Insert: "and"



EXHIBIT 31
DATE 2/21/91
HB 712

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 712 BEFORE THE HOUSE LABOR
COMMITTEE, FEBRUARY 21, 1991.

Madam Chair, members of the Committee, for the record my name is Don Judge, representing the Montana State AFL-CIO, and we are here today in support of House Bill 712.

The AFL-CIO has a long and proud history of fighting for a safe workplace for Montana's working men and women. Today, with House Bill 712, that fight continues. This bill guarantees that workers receive the necessary protection and safety equipment that is needed in order to provide a safe working environment.

House Bill 712 would place responsibility for maintaining a safe workplace squarely on the shoulders of both the employer and worker. The employer would be required to furnish safety equipment and protective clothing at his expense. The worker would be obligated to use the equipment properly and to maintain such equipment.

This bill also strengthens existing law. Currently, employers are required to provide safety equipment, but some employers have charged employees with the cost of the equipment. House Bill 712 makes it clear that employers will pay for these items. Additionally, House Bill 712 clarifies the definition of safety equipment to include health-related devices and protective clothing, both of which may be necessary for a safe workplace.

There have been a lot of bills this session addressing workers' compensation insurance. To us, safety is the best way to address costs and benefits provided under workers' comp. A safer workplace means less accidents, and requiring safety should help employers hold down their workers' compensation premium rates. Most importantly, it could help reduce the human toll associated with workplace injuries, diseases, and fatalities.

Some jobs are hazardous by their very nature. There is no way to make every job one hundred percent safe. But with the help of House Bill 712 we can all rest easy knowing that we have done something to help workers, their families, and their employers.

For these reasons we urge your favorable consideration of House Bill 712. Thank you.

Amendments to House Bill No. 712
First Reading Copy

For the House Committee on Labor and Employment Relations

Prepared by Eddye McClure
February 21, 1991

1. Title, line 4.
Following: "THAT"
Insert: ", WITH THE EXCEPTION OF FOOTWEAR,"
2. Title, line 6.
Following: "PROTECTIVE"
Insert: "SAFETY"
3. Page 1, line 20.
Following: "(2)"
Insert: "with the exception of footwear,"
4. Page 1, line 22.
Page 2, lines 11 and 15
Following: "protective"
Insert: "safety"
5. Page 1, line 24.
Following: "employer,"
Strike: "or"
Insert: "and"

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

LABOR & EMPLOYMENT RELATIONS COMMITTEE BILL NO. HB 712
DATE 2/21/91 SPONSOR(S) Rep. Carolyn Squires

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JAMES L. SCHMIDT JR BOX 358 COLUMBIA FALLS MT 59912	ALUMINUM WORKERS TRADES COUNCIL	X	J.S.
TERRY L. Smith 780 Rt. View Ln Kal. 59901	Local 320 A.B.W.	✓	
Don Edwards	A.B.W.	X	
George Hagerman	AFSCME	✓	
Don Edwards	MT. ST. AFL-CIO	X	X
Don Judge	MT. ST. AFL-CIO	L	
Dewey Hall	Bricklayers	X	
MARK LANKBORN	AFSCME	X	
Don Allen	MT. ST. AFL-CIO		X
Jay Richardson	Hepworth Big Sky Central Labor Council	X	
Eng. Tom	MT. ST. AFL-CIO		
Bob Heiser	UFCW	X	
Tom Schuchler	UFCW	X	
Don Edwards	MT. ST. AFL-CIO	X	X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

LARS ERICSON

MT ST CARPENTERS

X

Representative Cobb closed on House Bill 506.

HEARING ON HOUSE BILL 712

Presentation and Opening Statement by Sponsor:

Representative Carolyn Squires told the Committee House Bill 712 guarantees workers receive the necessary protection and safety equipment needed in order to provide a safe working environment. It would place the responsibility of a safe workplace with both the employer and employee. The employer would be required to furnish safety equipment and protective clothing at his expense; the worker would be obligated to use the equipment properly and maintain such equipment. House Bill 712 also strengthens existing law. Currently employers are required to provide safety equipment, but some charge the employees for the cost. This legislation makes it clear the employer will be responsible for the cost. She told the Committee safety is the most effective way to address the rising costs of workers' compensation. Representative Squires commented the House Labor Committee amended House Bill 712.

Proponents' Testimony:

Robbie Far of the American Federation of State, County and Municipal Employees Union spoke in support of House Bill 712. He explained AFSCME has many employees who are required to pay for their own safety equipment. Many times their pay is not enough to cover those costs. If the employer requires the equipment the employer should provide the equipment.

George Wood, Executive Secretary of the Montana Self Insurers Association spoke in support of House Bill 712. He pointed out an important portion of House Bill 712 is the employee is required to use the equipment.

Bob Heiser of the United Food and Commercial Workers International Union spoke in favor of House Bill 712. He told the Committee many times workers who have been out of work for a long period of time. The safety equipment they are required to wear is expensive. He commented House Bill 712 is neither a labor bill or an employee bill; it is joint labor/management with all parties benefitting. He pointed out workers' compensation premiums will not increase if the workplace is safe.

Don Judge of the Montana State AFL-CIO spoke from prepared testimony in support of House Bill 712. (Exhibit #4)

Gene Fenderson of the Montana Building and Construction Trades Unions spoke in support of House Bill 712. He told the Committee HB 712 is a "fairness bill". He explained in his labor agreements across the state almost all require the employer to provide the safety equipment needed. In many cases non-union

contractors do not. This can raise the workers' compensation classification code for all employers.

Michael Sherwood, representing the Montana Trial Lawyers Association spoke in favor of House Bill 712.

Opponents' Testimony:

NONE.

Questions From Committee Members:

Senator Devlin asked Representative Squires what would happen if an employee refused to use the equipment on the job. Representative Squires told the Committee the individual would be terminated because it is a condition of employment.

Senator Towe asked Representative Squires if there were a provision which specifically states this. Representative Squires told the Committee it is statutorily required, and can be used for cause of termination. She explained the individual is warned and then terminated if they refuse.

Senator Devlin asked who determines the equipment. Representative Squires told the Committee the Fiscal Note states the Occupational Safety and Health Administration supersedes state enforcement in the private sector where OSHA has jurisdiction.

Senator Devlin asked if this should appear in the bill rather than the Fiscal Note. Representative Squires explained OSHA standards are standards which are applicable to places of employment. Employers are aware of those OSHA standards.

Senator Devlin asked if the bill addresses those cases in which either side fails to "live up to their side of the bargain". Representative Squires explained contracts, OSHA, and the state safety bureau deals with this.

Senator Towe asked about the amendment on Page 2. He pointed out it appears the legislation would only have effect where both the state or federal law, and the terms of the contract of employment would require the safety equipment. Representative Squires explained the Columbia Falls Aluminum company has already negotiated a portion of their contract in regards to safety equipment.

Senator Towe pointed out it appears to substantially weaken the issue. Both the law and a contract requiring this would be needed. Representative Squires commented those individuals such as Stone Container, Champion International, Columbia Aluminum and those with contracts containing negotiated safety equipment are being addressed. She explained this is a bargain issue. Those who are not providing equipment need to be addressed.

Senator Towe asked what would happen if there were no employment contract. Representative Squires told the Committee the employee has the right to go to OSHA or the state safety bureau. She explained the legislation is much "weaker" than she intended but is a compromise between the industry and others.

Senator Towe asked George Wood to respond. Mr. Wood explained without the "and", it "projects a potential conflict between state and federal and the employment contracts". There would be no conflict with employment contracts already in effect. He explained some employment contracts require more than state and federal.

Senator Towe pointed out House Bill 712 will take affect only if the state or federal law requires it, the employer requires, and it is part of the terms of employment contract. Mr. Wood commented and, if the employer requires it whether the contract is a written contract between unions or oral.

Senator Towe commented if the state or federal law does not require it this law is not effective. Mr. Wood stated the employment contract already covers it.

Senator Towe asked Don Judge to respond. Mr. Judge told the Committee he does not agree with Mr. Wood. He commented there appears to be a drafting error; it should say "or". If this were not the case, current law applying to all people without contracts would not apply.

Senator Towe explained Mr. Wood is saying this may not apply to a collective bargaining agreement, it may be an employment contract which may be an oral understanding; which may technically correct. Mr. Judge stated he is technically correct about an employment contract being something which is oral as well as written; but the Aluminum plant workers (not the employer) said if the terms of their collective bargaining agreement provided for something other than state or federal law, that would be the applicable contract for those safety items. He commented "or" would be more appropriate than "and".

Mr. Wood told the Committee he felt a problem was being created which does not exist, and then a solution which may or may not solve the problem.

Representative Squires cautioned the Committee not to upset the balance of the compromise reached previously.

Senator Blaylock asked Michael Sherwood if it would be "safer" to not list items such as those on Page 1, Lines 24 and 25 and Page 2, Line 1. He pointed out if items were not listed someone could "get out of it". Mr. Sherwood told the Committee when citing the "particular" there is a risk of overruling the "general". He suggested adding "including, but not limited to".

Closing by Sponsor:

Representative Squires closed. She requested Senator Doherty carry House Bill 712 to the Senate.

HEARING ON HOUSE BILL 465Presentation and Opening Statement by Sponsor:

Representative Fred Thomas told the Committee House Bill 465 makes revisions to the workers' compensation law. It will clarify rules of evidence will not apply in a workers' compensation hearing, allowing hearing to be more formal and less costly. The state fund will pay its fair share of both direct and indirect costs to the workers' compensation assessment. It reduces claims reporting requirements to insurers, streamlines administration, expedites payments to claimants, allows the department of labor to accept medical fee schedules based upon the industry data rather than solely the state fund data, revises the procedure for resolving disputes over impairment ratings, establishes a time frame for application or certification as vocational handicapped, requires the department of labor require additional security under Plan 1 or a self-insurer, amends the occupational disease act and allows optional occupational disease claims be paid from the subsequent injury fund, and repeals outdated procedures.

Proponents' Testimony:

Bob Jensen of the Department of Labor and Industry told the Committee House Bill 465 is at the request of the department. It contains a number of unrelated issues pertaining to the workers' compensation regulatory functions. It does deal with benefit levels or issues which would adversely effect claimants or employers. He explained House Bill 465 was discussed with an ad hoc advisory committee including representation from claimants, attorneys, rehabilitation services, and all three insurer groups. Although all council members may not totally agree with every section there was consensus House Bill 465 is an appropriate department bill.

Mr. Jensen told the Committee there were three considerations when drafting the legislation:

- 1) Drafting oversights in Senate Bill 428 (1989 reorganization bill). SB 428 abolished the workers' compensation division, established the state fund as a separate entity and transferred the regulatory function to the Department of Labor and Industry. He explained Section 2 is needed to clarify what assessments against the state fund the department can make for the workers' compensation administration fund. Presently the statute mandates the department "assess the state fund an amount to fund the

EXECUTIVE ACTION ON HOUSE BILL 465

Motion:

Senator Nathe moved House Bill 465 BE CONCURRED IN as amended.

Discussion:

Senator Aklestad asked if there could be a retroactive requirement for fees and deposits.

Senator Towe commented they would be able to accept but not require after the effective date of the bill.

Senator Keating stated the department can only require the \$250,000 or the average of the three years or may accept a larger deposit offered.

Amendments, Discussion, and Votes:

Senator Aklestad moved to strike "require" on Page 14, Line 4 and insert "accept". Motion CARRIED with Senator Pipinich and Senator Towe voting NO. Senator Doherty was absent.

Recommendation and Vote:

Nathe motion to BE CONCURRED IN as amended CARRIED UNANIMOUSLY. Senator Nathe will carry House Bill 465 in the Senate.

EXECUTIVE ACTION ON HOUSE BILL 712

Motion:

Senator Aklestad moved House Bill 712 BE CONCURRED IN as amended.

Amendments, Discussion, and Votes:

Senator Blaylock moved to amend House Bill 712 on Page 1, Line 25 after the word "including" insert ", but not limited to". Motion CARRIED UNANIMOUSLY.

Discussion followed regarding the language on Page 2, Lines through Lines 3.

Senator Keating stated if an individual is "going into a risky job" they do not have to belong to the bargaining unit, but they can enter into a private with the employer which states the

employer will provide safety equipment. He explained this is an employment contract and does not have anything to do with a collective bargaining unit. He told the Committee they were "tampering with the intent of this language by involving it with a collective bargaining agreement".

Senator Towe pointed to Page 1, Line 18. He commented this language is conjunctive, and these only have to be furnished when 1) there is a state or federal law requiring it, 2) the employer requires it, and 3) the employer has a contract requiring it. By inserting "or" the employer shall purchase and furnish these items, 1) when state or federal law requires it, or 2) when the employer requires, or 3) the terms of the employment contract require it.

Senator Doherty moved to amend Page 2, Line 2 before "employer" insert the word "or"; insert after "the employer," "unless terms of collective bargaining agreement provide otherwise"; strike "or AND the terms of an employment contract".

Senator Aklestad pointed out by striking employment contract and adding collective bargaining agreements it would only address those under a union contract. He commented the sponsor of the bill stated is at a balance. He suggested not amending further.

Senator Towe asked Don Judge to comment. Mr. Judge explained if these provisions are required by state law, required by federal law, required by the employer, required by the terms of an employee contract the employer shall provide these items. He explained this addresses one side of the issue. The aluminum workers had reached an agreement in which the workers pay for a portion of the equipment themselves, and they were trying to provide coverage for their contracts which allow them to pay for a portion. He explained if the bill passes with simply changing the "and" to an "or", the aluminum workers' concerns are not addressed. He suggested leaving in "the terms of an employment contract" and insert "unless provided in the terms of a collective bargaining agreement".

Senator Lynch offered a substitute motion to amend Page 2, Line 2 by striking "and" after the word "employer" inserting "or"; Line 3 after the word "contract" strike ";" insert "unless the terms of collective bargaining agreement provide otherwise;". Motion CARRIED with Senator Devlin voting NO.

Senator Keating pointed to Page 1, Line 18. He commented there is redundancy in: each employer shall provide equipment which is required by the employer.

Recommendation and Vote:

The Aklestad motion House Bill 712 BE CONCURRED IN as amended CARRIED with Senator Devlin voting NO.

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 3/12/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P		
SENATOR LYNCH	P		
SENATOR MANNING			E
SENATOR NATHE	P		
SENATOR PIPINICH	P		
SENATOR TOWE	P		
Senator Doherty	P		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 14, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration House Bill No. 712 (third reading copy -- blue); respectfully report that House Bill No. 712 be amended and as so amended be concurred in:

1. Page 1, line 25.

Following: "including"

Insert: "but not limited to"

2. Page 2, line 2.

Following: "or"

Strike: "AND"

Insert: "or"

3. Page 2, line 3.

Following: "contract"

Insert: ", unless the terms of a collective bargaining agreement provide otherwise"

BEST COPY
AVAILABLE

Signed: Thomas E. Towe
Thomas E. Towe, Vice-Chairman

W. 3/14/91
Amd. Conf.

1/4/91
Sec. of Senate



DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 712 BEFORE THE SENATE LABOR COMMITTEE,
MARCH 12, 1991.

Mr. Chairman, members of the Committee, for the record my name is Don Judge, representing the Montana State AFL-CIO, and we are here today in support of House Bill 712.

The AFL-CIO has a long and proud history of leading the charge for a safe workplace for Montana's working men and women. Today, with House Bill 712, that fight continues. This bill would guarantee that workers receive the necessary safety and protective equipment that is needed in order to provide a less threatening work environment.

House Bill 712 would place responsibility for maintaining a safe workplace squarely on the shoulders of both the employer and worker. The employer would be required to furnish safety equipment and protective clothing at his expense. The worker would then be obligated to use the equipment properly and to maintain such equipment.

This bill also clarifies existing law. Currently, employers are required to provide safety equipment, but some employers have charged employees with the cost of the equipment. House Bill 712 makes it clear that employers will pay for these items. Additionally, House Bill 712 clarifies the definition of safety equipment to include health-related devices and protective clothing, both of which may be necessary for a safe workplace.

The sponsor has worked to make this bill agreeable to all by calling for an exemption for safety constructed footwear. We understand the compromise which provided this exemption because of the high cost involved and are supportive of any effort to make this a workable piece of legislation.

There have been a multitude of attempts this session to deal with the rising cost of workers' compensation insurance premiums. In our minds, improved safety standards represents the best way to address these costs. A safer workplace means fewer accidents, and encouraging more safety awareness should help employers hold down their workers' compensation premium rates. Most importantly, it could help reduce the human toll associated with workplace injuries, diseases, and fatalities.

SENATE LABOR & EMPLOYMENT

EXHIBIT NO. 4

DATE 3/12/91

BILL NO. HB 712

Testimony of Don Judge, HB 712
Senate Labor Committee
March 12.

Some jobs are hazardous by their very nature. There is no way to make every job one hundred percent safe. But with the help of House Bill 712 we can all feel better knowing that we have done something to help workers, their families, and their employers.

For these reasons we urge your favorable consideration of House Bill 712.

Thank you.

3/12/91

DATE _____
Senate Labor _____

HJR 18

[illegible]